

PART VII

ESTABLISHING ENTITLEMENT UNDER 20 C.F.R. PART 718

A. IN GENERAL

1. APPLICABILITY

The Secretary of Labor has promulgated permanent standards for black lung disability benefits pursuant to authority conferred by Section 402(f) of the Act, 30 U.S.C. §901(f). The regulations at Part 718 apply to all claims filed *after* March 31, 1980. See 20 C.F.R. §718.2; ***Mazgaj v. Valley Camp Coal Co.***, 9 BLR 1-201 (1986); ***Muncy v. Wolfe Creek Collieries Coal Co.***, 3 BLR 1-627 (1981). For all claims filed prior to April 1, 1980, the interim regulations found at 20 C.F.R. §727.203 also apply. See ***Pittston Coal Group v. Sebben***, 488 U.S. 105, 12 BLR 2-89 (1988).

There remains a split of authority, however, regarding the issue of which permanent regulations to apply where the claim is *filed* prior to March 30, 1980 but *adjudicated* thereafter. In ***Muncy v. Wolfe Creek Collieries Coal Co., Inc.***, 3 BLR 1-627 (1981), the Board held that the Part 410 regulations apply to all claims *filed* prior to April 1, 1980 even though they may be *adjudicated* thereafter. ***Muncy*** is applied in cases arising in all circuits except for those arising in the Third, Sixth, Seventh and Eighth Circuits. See ***Saginaw Mining Co v. Ferda***, 879 F.2d 198, 12 BLR 2-376 (6th Cir. 1989); ***Knuckles v. Director, OWCP***, 869 F.2d 996, 12 BLR 2-217 (6th Cir. 1989); ***Caprini v. Director, OWCP***, 824 F.2d 283, 10 BLR 2-180 (3d Cir. 1987); ***Strike v. Director, OWCP***, 817 F.2d 395, 10 BLR 2-45 (7th Cir. 1987); ***Oliver v. Director, OWCP***, 888 F.2d 1239, 13 BLR 2-124 (8th Cir. 1989). In those circuits, the Board applies Part 718 to claims *filed* prior to March 3, 1980 but *adjudicated* thereafter.

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